

SEALED

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
WEST PALM BEACH DIVISION**

CASE NO. 23-80101-CR-CANNON(s)

UNITED STATES OF AMERICA,

Plaintiff,

v.

**DONALD J. TRUMP,
WALTINE NAUTA, and
CARLOS DE OLIVEIRA,**

Defendants.

UNDER SEAL

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| FILED BY <u>cos</u> D.C. |
| NOV 29 2023 |
| ANGELA E. NOBLE CLERK U.S. DIST. CT. S.D. OF FLA. - W.P.B. |

SEALED CONSENT MOTION TO EXCEED PAGE LIMITS

The Government respectfully moves for leave to exceed the page limits set forth in the Court's Local Rules with respect to its upcoming *ex parte* motion under Section 4 of the Classified Information Procedures Act ("CIPA"), 18 U.S.C. App. 3. As explained below, the leave requested will permit the Government to file a single motion, rather than multiple motions, which will be more efficient and succinct and thereby promote judicial economy. The Government and counsel for defendants Trump, Nauta, and De Oliveira met and conferred concerning the Government's motion. Defense counsel consent to the motion, but without prejudice to any motion they may file related to the *ex parte* nature of CIPA Section 4.

Pursuant to the Scheduling Order entered by this Court on November 10, 2023, on Monday, December 4, the Government intends to file an *ex parte*, classified motion to withhold from discovery certain sensitive classified material under CIPA Section 4. The motion will relate to classified information both that the Government seeks to delete from discovery with respect to cleared counsel and all three defendants as well as classified information that the Government

seeks to withhold from defendants Waltine Nauta and Carlos De Oliveira. The motion will invoke the classified information privilege and request that the Court authorize the Government to delete from or substitute in discovery certain classified information to protect intelligence equities. In support of the Government's invocation of the classified information privilege, the motion will attach sworn declarations from representatives of agencies holding equities in the classified information that attest to the sensitive nature of the classified information and the risks posed by disclosure.

Although this Court's Scheduling Order permits the Government to file multiple Section 4 motions, *see* ECF No. 215 at 8, for efficiency, rather than file separate motions to protect multiple categories of classified information from disclosure to cleared counsel and additional motions with respect to Nauta and De Oliveira (which strict compliance with the Local Rules' page limitation for briefs would require), the Government is combining them into a single motion. Although combining the categories of classified information, which involve overlapping risks to national security, into a single motion is more efficient and succinct, doing so necessitates filing a brief exceeding 20 pages in length. Accordingly, pursuant to Local Rule 7.1(c)(2), which requires the Court's permission to file a brief beyond 20 pages, the Government requests leave to file a single *ex parte* CIPA Section 4 motion and supporting memorandum of law not to exceed 85 pages (not including the supporting sworn declarations by representatives of equity-holding federal agencies and other documentary exhibits).

For the foregoing reasons, the Government respectfully requests that the Court permit it to exceed Local Rule 7.1(c)(2)'s 20-page limit for its upcoming CIPA Section 4 filing, up to 85 pages for a motion and accompanying memorandum of law.

Respectfully submitted,

JACK SMITH
Special Counsel

By: /s/ Jay I. Bratt
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November 29, 2023

CERTIFICATE OF SERVICE

I hereby certify that on November 29, 2023, I caused the foregoing document to be filed with the Clerk of the Court by hand delivery. I also certify that the foregoing document is being served this day on all counsel of record via email.

/s/ Jay I. Bratt
Jay I. Bratt